

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

UNITED STATES OF AMERICA

v.

CECIL DEWITT NELSON

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CR 612-005-2

O R D E R

On May 11, 2016, Defendant Cecil Dewitt Nelson filed a motion for certified copies of certain documents including the docket sheet in this criminal case, the "Original Complaint," documents related to the indictment, his signed change of plea form, and his plea agreement, presumably free of charge. On July 1, 2016, he filed a substantively identical motion.

Nelson indicates that the documents "are very necessary to support the further legal proceedings in this criminal case." (Doc. 243, at 1.) However, a habeas petitioner is only entitled to receive free copies of documents if the trial judge certifies that a habeas petition is not frivolous and the documents are needed to decide the issues presented. 28 U.S.C. § 753(f); see also Hansen v. United States, 956 F.2d 245, 248 (11th Cir. 1992); Walker v. United States, 424 F.2d 278, 278-79 (5th Cir. 1970) (stating that "[a] federal prisoner is not entitled to obtain copies of court records at

Government expense for the purpose of searching the record for possible error"). Here, Nelson does not have a pending habeas proceeding in this Court. In fact, the Eleventh Circuit recently denied Nelson's application for a certificate of appealability in his appeal from this Court's denial of his motion under 28 U.S.C. § 2255.

The observation that Nelson has already filed a § 2255 motion is important because in order to bring another § 2255 motion, he must move the Eleventh Circuit Court of Appeals for an order authorizing this Court to consider a second or successive § 2255 motion. See 28 U.S.C. §§ 2255, 2244(b)(3). Until Nelson acquires the necessary authorization to bring a successive § 2255 motion from the Court of Appeals, this Court has no cause to find any request for documents in this case "necessary" to a legal proceeding in this Court.

Upon the foregoing, Nelson's motions for documents (docs. 243 & 246) are **DENIED**.¹

ORDER ENTERED at Augusta, Georgia, this 4th day of August, 2016.


UNITED STATES DISTRICT JUDGE

¹ Nelson may always arrange to pay the Clerk's office for the cost of any copies made at his request.